

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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VICTORIA MALONE,

Plaintiff,

Case No.

7:19-cv-05503 (VB)

-against-

TOWN OF CLARKSTOWN, WAYNE BALLARD, in his
personal and official capacity as Clarkstown
Highway Superintendent, FRANK DIZENZO, in
his personal and official capacity as
Clarkstown Highway Superintendent, ANDREW
LAWRENCE, in his personal and official
capacity, DAVID SALVO, in his personal and
official capacity, ROBERT KLEIN, in his
personal and official capacity, TUCKER
CONNINGTON, in his personal and official
capacity, and BRIAN LILLO, in his personal
and official capacity,

Defendants.

-----x

1133 Westchester Avenue
White Plains, New York

September 24, 2020
10:16 a.m.

EXAMINATION BEFORE TRIAL of VICTORIA MALONE, the
Plaintiff herein, held at the above time and place,
taken before Cheryl Thompson, a Shorthand Reporter
and Notary Public within and for the State of
New York, pursuant to Order.

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<div>Page 2</div> <div> 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 </div> <div> <p>APPEARANCES:</p> <p>POLLOCK COHEN LLP Attorneys for Plaintiff 60 Broad Street, 24th Floor New York, New York 10004</p> <p>BY: ADAM POLLOCK, ESQ. STEVE COHEN, ESQ. (VIA ZOOM)</p> <p>TOWN OF CLARKSTOWN 10 Maple Avenue New City, New York 10956</p> <p>BY: LESLIE KAHN, ESQ. TOWN ATTORNEY</p> <p>WILSON ELSER MOSKOWITZ EDELMAN & DICKER LLP Attorneys for Defendants Town of Clarkstown, David Salvo and Tucker Connington 1133 Westchester Avenue White Plains, New York 10604</p> <p>BY: ELIZA M. SCHEIBEL, ESQ.</p> <p>LAWRENCE A. GARVEY & ASSOCIATES, P.C. Attorneys for Defendant Frank DiZenzo Westchester Financial Center 50 Main Street, Suite 390 White Plains, New York 10606</p> <p>BY: LAWRENCE A. GARVEY, ESQ. (VIA ZOOM)</p> <p>BRITTANY C. CORDERO, ESQ. (VIA ZOOM)</p> </div>	<div>Page 4</div> <div> 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 </div> <div> <p>STIPULATIONS</p> <p>IT IS HEREBY STIPULATED AND AGREED by and between the counsel for the respective parties hereto, that the filing, sealing, and certification of the within deposition shall be waived.</p> <p>IT IS FURTHER STIPULATED AND AGREED that all objections, except as to the form of the question, shall be reserved to the time of the trial.</p> <p>IT IS FURTHER STIPULATED AND AGREED that the within deposition may be signed before any Notary Public with the same force and effect as if signed and sworn to before the Court.</p> </div>
<div>Page 3</div> <div> 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 </div> <div> <p>APPEARANCES: (cont.)</p> <p>McDERMOTT & McDERMOTT LAW FIRM Attorneys for Defendant Robert Klein 293 Route 100, Suite 210 Somers, New York 10589</p> <p>BY: MICHAEL J. McDERMOTT, ESQ.</p> <p>LYONS McGOVERN LLP Attorneys for Defendant Brian Lillo 399 Knollwood Road, Suite 216 White Plains, New York 10603</p> <p>BY: KYLE C. McGOVERN, ESQ.</p> <p>ALSO PRESENT: DAVID SALVO CHARLES CONNINGTON ROBERT KLEIN BRIAN LILLO FRANK DIZENZO (VIA ZOOM)</p> </div>	<div>Page 5</div> <div> 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 </div> <div> <p>Victoria Malone</p> <p>(Whereupon, Notice of Claim was premarked Defendant's Exhibit A for Identification, as of this date, by the reporter; Supplemental Notice of Claim was premarked Defendant's Exhibit B for Identification, as of this date, by the reporter; and Amended Complaint and Demand for Jury Trial was premarked Defendant's Exhibit C for Identification, as of this date, by the reporter.)</p> <p>(Whereupon, a discussion was held off the record and appearances were announced via Zoom)</p> <p>MR. COHEN: This is Steve Cohen of Pollock Cohen on behalf of Miss Malone.</p> <p>MR. GARVEY: This is Lawrence Garvey on behalf of Defendant Frank DiZenzo.</p> <p>MS. CORDERO: Brittany Cordero on behalf of Defendant Frank DiZenzo.</p> <p>Mr. DiZenzo is on Zoom but I think he's having issues with his</p> </div>

1 Victoria Malone 26
 2 on his crew each day?
 3 A No.
 4 Q And does the crew foreman have the
 5 power to remove someone from his crew?
 6 A He doesn't have the -- I don't think
 7 he has the power personally. I think that he has
 8 to put in a complaint or request that a person be
 9 removed.
 10 Q Does the crew foreman give you any
 11 kind of performance review or evaluation of your
 12 work?
 13 A No.
 14 Q Can the crew foreman fire you?
 15 A No.
 16 Q And that crew with Ray, John Luther
 17 and Chris Frank, when did you join that crew?
 18 A Right before I left to go work at the
 19 town garage. I was working for them for probably
 20 about -- I don't know exactly an amount of time.
 21 Q Would you say it was more than a
 22 month?
 23 A Yes. Definitely.
 24 Q More than two months?
 25 A Yes.

1 Victoria Malone 27
 2 Q More than --
 3 A It had -- I don't know dates. I'm
 4 not good with that so I don't know exactly how
 5 much time was in between.
 6 Q Do you think you had been with them
 7 for that whole winter snow season?
 8 A I don't remember exactly.
 9 Q Did that crew, Ray, John Luther, Chris
 10 Frank and you have specific duties?
 11 A We picked up brush --
 12 Q And --
 13 A -- we did a lot of --
 14 Q I'm sorry
 15 A -- we did a lot of sidewalk trimming.
 16 Q Anything else?
 17 A I think that was pretty much it.
 18 Q What was your role on the crew?
 19 A Depending on the day who was there and
 20 who was absent, I could have been in the machine,
 21 I could have been raking, weed whacking.
 22 Q When you --
 23 A Using a blower.
 24 Q You mean a leaf blower?
 25 A Yes.

1 Victoria Malone 28
 2 Q When you say a "machine," what kind
 3 of machine?
 4 A A front loader.
 5 Q Any other tasks or role on that crew?
 6 A Not that I can recall at this time.
 7 Q What was your position at the time or
 8 your title at the time?
 9 A MEO II.
 10 Q What is your relationship like with
 11 the members of the other crew?
 12 A Good.
 13 Q Did you socialize with any of the
 14 members of that crew outside of work?
 15 A No.
 16 Q Did you ever go to any of their homes?
 17 A No.
 18 Q Did any of them ever come to your
 19 house?
 20 A Yes.
 21 Q Who came to your house?
 22 A John Luther came to my house.
 23 Q How many times did he come to your
 24 house?
 25 A Correction. John Luther came to my

1 Victoria Malone 29
 2 parents' house.
 3 Q Were you living at your parents' house
 4 at the time?
 5 A No.
 6 Q Did he ever come to your house?
 7 A My personal home?
 8 Q Yes.
 9 A No.
 10 Q Why did he go to your parents' house?
 11 A My father invited him for
 12 Thanksgiving.
 13 Q Were you also there at Thanksgiving
 14 that he was invited?
 15 A Yes.
 16 Q Did you ever have any problems with
 17 anyone on that crew, your last crew, Ray, John
 18 Luther and Chris Frank?
 19 A No.
 20 Q Did any of the members of that crew
 21 subject you to harassment while you were on that
 22 crew?
 23 A No.
 24 Q What crew were you on immediately
 25 prior to that?

1 Victoria Malone 74
 2 Chris McDermott?
 3 A No.
 4 Q And did you ever spray anyone else
 5 with the water hose?
 6 A No. I would spray it up in the air
 7 and it would be -- like I'd say I can make it
 8 feel like it's raining and I would spray it up in
 9 the air.
 10 Q Did you ever see anyone else spray
 11 the water hose at someone else?
 12 A Yeah.
 13 Q Who did you see spray the water hose
 14 at someone else?
 15 A Frank DiZenzo.
 16 Q Did you ever see anyone else use the
 17 water hose to spray someone else?
 18 A I don't remember exactly but I know
 19 people did.
 20 Q Was that just to joke around?
 21 A There was no intent to harm anybody,
 22 no.
 23 Q People were just having fun?
 24 A I'm sorry?
 25 Q Would you say that people were just

1 Victoria Malone 75
 2 having fun?
 3 A Yeah. I wouldn't say that it was a
 4 bad time.
 5 Q Have you ever used a leaf blower to
 6 blow leaves on a co-worker?
 7 A Yes.
 8 Q Who did you blow leaves on?
 9 A I don't remember.
 10 Q Was that while you were on the tree
 11 crew?
 12 A I don't remember.
 13 Q Why would you blow leaves on someone?
 14 A Because they blew leaves on me. Or
 15 because they said something they shouldn't have
 16 said.
 17 Q Can you give me an example of what
 18 someone would have said?
 19 A I can't in this instance because I
 20 don't know. I'm going to go with probably because
 21 it's very loud so I'm going to probably say they
 22 blew leaves on me or threw something at me or
 23 something like that.
 24 Q Do you remember a specific instance
 25 of someone using a leaf blower to blow leaves at

1 Victoria Malone 76
 2 you?
 3 A I don't remember a specific one, no.
 4 Q And did you ever swear or curse at
 5 other members of the crew, on the tree crew?
 6 A Yes.
 7 Q What kind of swears would you use?
 8 A Fuck you, you're an asshole.
 9 Q Anything else?
 10 A You're a piece of shit. Don't ever
 11 fucking talk to me like that. Don't fucking do
 12 stuff like that to me. Get the fuck off of me.
 13 Q Sorry. What was the last one?
 14 A Get the fuck off of me.
 15 Q When did you say that to someone?
 16 A When I was thrown to the ground.
 17 Q When were you thrown to the ground?
 18 A I don't remember exactly a date.
 19 Q Who threw you to the ground?
 20 A This instance that I'm talking about,
 21 Blue.
 22 Q When he threw you to the ground, you
 23 said get the fuck off of me?
 24 A Yes. Because he was sitting on top
 25 of me and smacking my ass.

1 Victoria Malone 77
 2 Q How often did you swear at your
 3 co-workers?
 4 A Whenever I felt it was necessary.
 5 That was really like my defense.
 6 Q Would you say that was daily?
 7 A I don't know about daily.
 8 Q At least once a week?
 9 A At least, yes.
 10 Q Multiple times a week?
 11 A I can't confirm that. I don't know.
 12 Q Did you ever call anyone on your crew
 13 a derogatory term?
 14 A As in?
 15 Q You just used some, like asshole or
 16 something else, derogatory --
 17 A What I said.
 18 Q That's all of them. Okay.
 19 Would you say that to their face or
 20 behind their back?
 21 A Both.
 22 Q Would they swear or curse at you?
 23 A Yes.
 24 Q Who would curse at you?
 25 A Brian's cursed at me, Chris --

Victoria Malone 86
into trouble.

Q So when would he make these stops, first thing in the morning as you were driving to a work site? When would these stops occur?

A The one with the kid in the school, that was in the morning.

And I believe the swim meet was later on in the day.

Q Any other instances other than going to see a child in school and a swim meet and picking up logs?

A Pick up logs? Grocery store. There was a grocery store run. I don't know. There could have been more. Those are the ones that stick out in my head.

Q How long did the grocery store run last?

A He had to drop the groceries off at home. So it was the grocery store and going to his home to drop the groceries off.

Q Did you ever ask to run an errand, did you ever ask if you and Dave could run an errand for you while in the roll-off?

A To use the bathroom.

Victoria Malone 87
Q Where would you go to go to the bathroom?

A Depending on where we were working. It would either be town hall, or I would stop at, if they were in Congers I would stop at my mom's house, or if they were closer to the barn, I would go to the barn.

Q So if you needed to go to the bathroom, you needed to leave the work site.

A Correct.

Q And you wouldn't take a vehicle yourself, you would ask someone else to drive you?

A If let's say we were on our way to the transfer station, or if we were en route to go to another job, then I would ask to stop.

If we were on the job site already, I would take the pickup truck and go.

Q When would you go to the transfer station?

A When the truck was full and nothing else could fit.

Q How many people are required to unload the truck when it's full?

Victoria Malone 88

A One can do it.

Q So would you ever ask Mr. Salvo if you could accompany him to the transfer station?

A If I had to use the bathroom, yes.

Q What about if you don't have to use the bathroom?

A I don't know. I might have asked if he needed help or something. That could be a possibility but I'm not sure.

Q So are those all of the situations where you thought you could get into trouble?

A To my knowledge at this time. There could be more but that's what I can remember for now.

Q You said situations where only something would happen to you and people would laugh.

What situations were those?

A Like I said with Blue, with Rob Klein, when he pushed me to the ground and was smacking my ass, everybody laughed.

Q Who is everybody?

A Chris McDermott, Brian Lillo, I'm not sure if Dave was there at that time. I don't

Victoria Malone 89
think Dave was there.

Q Any other situations where something happened to you that didn't happen to others and everyone laughed?

A Dave pushed me. He was also on top of me and my face was being pushed into the dirt, at a graveyard no less. Everybody laughed.

Q Who is everybody?

A Everybody that was there thought it was hysterical, except for Johnny Velez. And Johnny Velez came up to me at the end of the day and said nobody under any circumstances has a right to put their hands on you for any reason whatsoever.

Q When did this happen?

A I don't remember an exact day. I do remember exactly where I was so it's on a work order. That can be looked up, obviously, the date.

Q Was it at the end of your time at the tree crew or at the beginning?

A I don't remember.

Q What was happening when you say Mr. Salvo pushed you?

1 Victoria Malone 90
 2 A I don't remember exactly what
 3 happened. It all happened very fast.
 4 Q How did he push you?
 5 A It happened too fast. I don't recall
 6 exactly. All I remember is that I was on the
 7 ground and my face was in the dirt, and I was
 8 kicking him and doing whatever I could to get him
 9 off me.
 10 Q What part of him was on you?
 11 A I don't know. My face was in the
 12 dirt.
 13 Q Had you pushed him prior to this?
 14 A I don't recall. I don't believe so.
 15 Q And you don't remember what you were
 16 doing before he pushed you.
 17 A I think I was cleaning up brush.
 18 There was a tree being cut down so most likely
 19 that's what I did most of the time was clean up
 20 the brush.
 21 Q Did Mr. Salvo say anything to you
 22 before he pushed you?
 23 A I don't remember.
 24 Q Did you say anything to him?
 25 A I don't remember.

1 Victoria Malone 91
 2 Q And then what happened after he pushed
 3 you?
 4 A I kicked him off of me and tried to
 5 get him off of me and then went about my day.
 6 Q Did you say anything to him
 7 afterwards?
 8 A I probably called him an asshole.
 9 Q And did he say anything to you?
 10 A I don't know.
 11 Q Who else was there when that happened
 12 besides you and Mr. Salvo and Johnny Velez?
 13 A I specifically remember Johnny Velez
 14 just because he said that to me. But most likely
 15 it was the tree crew. I don't remember exactly.
 16 I know that Jeff Davidson had stopped
 17 up and Andy Lawrence, but I don't know if they
 18 were there for that.
 19 Q Were there any other instances where
 20 you felt something happened to you and everyone
 21 was laughing at you?
 22 A There were a lot. I mean, things
 23 happened all the time. It wasn't like a one- or
 24 two-time gig. But those were pretty specific. I
 25 was always grabbed or touched or tickled or pushed

1 Victoria Malone 92
 2 or anything like that. And that was just me.
 3 Nobody else was touched or tickled or pushed or
 4 anything like that.
 5 Q Who tickled you?
 6 A Chris McDermott.
 7 Q Was it while you were on the tree
 8 crew?
 9 A Yup.
 10 Q When would he tickle you?
 11 A I'd be sitting in the back seat and
 12 he would grab me. And then I would fight to get
 13 him off. And then it would end up with him
 14 tickling me. And then that would be it.
 15 Q Did you ever say anything to him?
 16 A Ow, get off, stop.
 17 Q Did you ever say anything to anyone
 18 else about him tickling you?
 19 A I don't -- I don't know.
 20 Q Apart from your talking to John
 21 Luther, I think it was about the tree falling
 22 close to you, did you ever complain to anyone
 23 else about the way Chris McDermott was treating
 24 you?
 25 A I don't know. I'm not sure. I don't

1 Victoria Malone 93
 2 think so.
 3 Q And you said that you were grabbed.
 4 Who grabbed you?
 5 A Chris.
 6 Q Did anyone else grab you?
 7 A Dave pushed me several times.
 8 Q When did he push you?
 9 A When I was trying to do my job. So I
 10 was trying to pick up sticks and stuff like that,
 11 and he would push me out of the way or elbow me
 12 and my boob or stuff like that.
 13 Q When you say he would push you out of
 14 the way, would he push you with his hands,
 15 leaning --
 16 A Push me with his elbows, he would
 17 walk back into me.
 18 Q Walk backwards into you?
 19 A Yeah.
 20 Q And would you say anything when he
 21 walked backwards into you?
 22 A Yeah. Ow, that hurt.
 23 Q Would you ever laugh when he did
 24 that?
 25 A No, because he hurt me. Or he was

Victoria Malone 94
doing it to get me out of the way.

Like it was almost like he didn't want me in that area. Like it was his show, get out of the way-type thing.

Q Would he say anything to you when he did that?

A No. No apology, no excuse me, no nothing.

Q Did you ever complain to anyone about the way Dave Salvo was treating you?

A I probably have. I don't, I definitely told Denny.

Q Denny Frisco?

A Yes.

I definitely told my parents. Told friends. I told some of the co-workers. I'm not sure exactly which ones. I know I told Paul Olivero, I told Mike Forenza.

Q Did you ever tell any of the deputies?

A I might have. I might have told Dom. I told a lot of people. I don't know exactly who but I know I said something.

Q Do you have any specific memory of

Victoria Malone 96

better get your story straight before you go into that office, or somewhere along the lines.

And that's where I heard that he had made up a story about me doing something to him dangerous and that I was moved from the crew.

Q So the first time you heard about this is that Steve Peters called you on the phone.

A Correct.

Q Is it correct Steve Peters told you that he overheard Dave Salvo talking to others?

A Yes.

Q And he heard them say you better get your story straight before you go in there?

A Yes.

Q Did Steve Peters say anything else to you?

A He said I don't know what's going on but I just thought I'd let you know that.

Q And then when were you transferred from your crew?

A I don't know the amount of time that happened afterwards but it was pretty quick.

Q Who told you you were being transferred?

Victoria Malone 95
complaining to -- is that Dom, about Dave Salvo?

A Complaining about Dave Salvo to Dom? Yes. This was towards the end when Dave went into the office and made up a story about me. Then I complained.

Q Just to clarify, Dom is Dom Santulli?

A Correct.

Q When did Dave go into the office and make up a story about you?

A I don't remember the exact date.

Q Do you know what year it was?

A Probably like 2018. I'm going to assume.

Q When you say "made up a story" --

A He made up a story.

Q -- what was the story?

A From what I gather, he made up a story about me flagging and how I was directing cars to hit him.

So I got a phone call from Steve Betters that said that he had heard Dave Salvo and -- what's his name. They call him "Jesus." I can't remember his name. Signorelli. And I think Kevin Knudsen was there. And they said I

Victoria Malone 97

A I think it was Dom.

Q What did he say when he told you?

A I don't remember. All I know is that I was moved.

Q Where were you moved to?

A I think I went with Ray.

Q How long were you off the crew?

A I don't remember times.

Q Was Dave Salvo also removed from the crew?

A I think at a later date. Not right away though.

And I don't know if it was for a specific reason, or for them to try and make like they did things the equal way. But it wasn't at the same time that I was moved. I missed out on money because of that.

And I remember specifically that he was, he was given overtime that I would have gotten as well if I had still been on that crew.

Q Did you ever talk to Dave Salvo about this, about this complaint?

A About his complaint?

Q Yes.

Victoria Malone 98

A I did talk to him. He called me on the phone briefly. I was in Florida.

Q What did he say?

A Something along the lines of he's with Bob Hayes now and he wants to get out of that crew, he's miserable, can you please tell Tucker that everything is okay, blah, blah, blah.

And I said you should have never did that to me. You should have never did that to me.

Q Did you say anything else?

A I was on vacation. I don't really remember what else the conversation had. But I do remember, I do remember saying you should have never did that to me.

Q Did he say anything else?

A He said that the fight that we had seemed, I don't remember the words he said exactly. Seemed like bad or something -- I don't know. I have no idea what he said. Something along those lines but --

Q What fight was he referring to?

A When he threw my gloves away.

Q When did he throw your gloves away?

Victoria Malone 99

A He threw my gloves away. I don't remember when that happened but he threw my gloves away. My gloves were in the roll-off.

Q How did you know he threw them away?

A He told me he threw them out.

Q When was that?

A When I confronted him about where my gloves were.

Q So can you just tell me what happened. You can't find your gloves, then what did you do?

A I was in the roll-off. I think he was off or he wasn't in the roll-off that day. It was my truck to operate.

I left my gloves, I buy myself when it's cold out, I buy myself tight-fitting gloves that keep my hands warm inside of my work gloves. And I took them off and left them on the side of the roll-off by the seat.

When I went to get them the next day, they were gone, and he told me not to leave my shit in his truck.

Q Did he say anything else?

A No. But I flipped out.

Q What did you say?

Victoria Malone 100

A Don't ever touch my stuff, how dare you, those were my fucking gloves.

Then I told Blue and Blue said to me, if he threw my gloves out, I would be pissed too.

Q Did you do anything else about it?

A No, I don't think so. I think I just yelled at him.

Q And were there any incidents between you and Mr. Salvo prior to him throwing out your gloves?

A Instances as in --

Q Other fights?

A Yes.

Q What other fights did you have?

A I don't remember specifically, but he was -- like overpushing me maybe, maybe over, just over anything really.

He said that Thursdays were his bad days, that he was nasty on Thursdays. I don't know. He had problems with his wife and he was taking it out on me.

Q Is that something that he told you?

A Yes.

Q When did he tell you that?

Victoria Malone 101

A He told me that at the party that I described earlier for my friend that passed away, where he was the next-door neighbor.

Q And when you were taken off the tree crew -- start over.

You think you were taken off the tree crew because of Mr. Salvo made a complaint about you.

A Yes.

Q When you were taken off the tree crew at that time, did you want to be back on the tree crew?

A I think that I was more so angry at the fact that I was the only one taken off, and how dare you move me and not anybody else, because that's not right, either. I shouldn't be the one that be punished. I shouldn't be the one to look like I was wrong.

Q Was Mr. Salvo also taken off the crew?

A That was later. I'm talking about when I first got moved, just me.

Q My question is when you were both off of the crew and you had this phone call, did you

Victoria Malone 102
want to be back on the tree crew?

A I don't know. I don't recall. I think that I was angry for the first reason that I just said, and for the second reason that I had missed out on overtime because of the fact that I was moved and everybody else made it.

Q Is it your answer that you don't know if you wanted to be back on the tree crew?

A No, I said I was angry for two reasons, and the one main reason was I missed out on money. That pissed me off more than anything.

I think it's misconstrued to say I wanted to go back on that crew. I don't think I wanted to go back on that crew and -- I think I was just angry about the fact that I was moved to begin with because it was only me and that I missed out on overtime. That's money out of my pocket so I was angry at those two things.

Q And was Mr. Salvo calling you so that you could both be placed back on the tree crew?

A Mr. Salvo was calling me so that he could be back on the tree crew. He wanted to be back. He wanted them to think that everything was okay between me and him so he could get out

Victoria Malone 103
of Bob Hayes' crew because Bob Hayes was driving him insane.

I was on vacation. I wasn't even thinking about the highway department at that time, nor where I was going to be when I got back. I don't know.

Q Would you have preferred to stay on Ray's crew?

A Yes.

Q And did you --

A I like Ray. Ray is very nice to me.

Q Did you tell anyone that before you were put back on the tree crew?

A I don't know. I'm confused to the timeline here that's happening so I can't answer that. I would have to --

Q So you said that you were on the tree crew.

A I was on the tree crew. I got moved but I can't, I got moved so many times, it's like hard for me right now to place where I was at that particular time.

I can't give you an answer to that because I would need to see like where I was.

Victoria Malone 104
It's like a little bit of a cluster for me.

Q But there was a time before you were ultimately transferred off the tree crew?

A I was ultimately transferred off the tree crew. Rob Klein was also taken off the tree crew.

It was me, Rob Klein, Joe Donovan, and somebody else that I don't -- maybe there wasn't nobody else. Rob Gaglione maybe? I think.

Then that ended and they moved me again and I was in Rayucci's crew. Just say "Ray."

Q While you were off the tree crew due to the complaint about flagging --

A Yes.

Q -- did you meet or talk with anyone before being put back on the tree crew?

A I don't think I was put back on. Was I put back on the tree crew? I don't remember. I don't remember --

Q You don't remember being put back on the tree crew after being taken off the tree crew for flagging?

Victoria Malone 105

A I would need to see where I was at the time. I'm confused when I started with Ray. I'm confused with Rob Klein, how the timeline went.

All I know is I was angry because I was the only one that was moved and because I missed out on money.

Q Maybe we will look at a document and maybe that will help you.

A Yeah. That works.

MS. SCHEIBEL: So I'm going to ask you to mark this as Exhibit D.

(Whereupon, text messages, Malone Bates stamp 001994-001996 were marked Defendant's Exhibit D for Identification, as of this date, by the reporter.)

Q So I just handed you some text messages that have Bates number Malone 001994 to 1996, and I'm just going to ask you do you recognize that document.

A Say that again?

Q Do you recognize that document.

A Yes.

1 Victoria Malone 106
 2 Q What is that document?
 3 A This is a text message.
 4 Q Up in the upper left-hand corner it
 5 says messages Dave Salvo.
 6 A Yes.
 7 Q Does that mean that this is text
 8 messages between you and Dave Salvo?
 9 A Yes.
 10 Q On the right-hand side, the messages
 11 in blue, are those the text messages that are
 12 sent from your phone?
 13 A Yes.
 14 Q And the gray text messages on the
 15 left side of the page, are those the ones that are
 16 sent from Mr. Salvo's phone?
 17 A Yes.
 18 Q So I'm going to ask you to look at
 19 the bottom of Page 1994. The conversation on
 20 March 18th of 2018.
 21 A Yes.
 22 Q What is that conversation about?
 23 A This is when I was in Florida.
 24 Q Okay. What is this about?
 25 A This is about him being moved from

1 Victoria Malone 107
 2 the tree crew. This is the conversation that I
 3 was just telling you about.
 4 Q He said I know you want to stay in the
 5 tree crew as much as I do; is that right?
 6 A No.
 7 MR. POLLOCK: Is that right that
 8 he wrote that or --
 9 Q Is that what he said?
 10 A That's what he said.
 11 Q Are you saying at that time you did
 12 not want to go back to the tree crew?
 13 A I don't know how I felt at that time,
 14 honestly. I was on vacation and I wasn't thinking
 15 about the highway department.
 16 Q So you don't recall if you wanted to
 17 go back to the tree crew.
 18 A I probably didn't, no.
 19 Q If we look further down on March 18th
 20 on Page 1995, you said go in tomorrow. Tell them
 21 we are fine.
 22 A Yes.
 23 Wait. Where did I say that? Yes.
 24 Q And the following day, March 19, 2018,
 25 did you ask Mr. Salvo if he had talked to Tucker?

1 Victoria Malone 108
 2 A Yes.
 3 Q Did Mr. Salvo --
 4 A I texted him.
 5 Do you want me to read that out loud?
 6 Q You can just read it to yourself.
 7 A Okay.
 8 Q You want to read the rest of the
 9 conversation onto the next page.
 10 (Witness complies)
 11 Q Did Mr. Salvo tell you that Tucker
 12 wanted to meet with both of you?
 13 A Yes.
 14 Q To make sure that you were on the same
 15 page?
 16 A Yes.
 17 Q And did you have that meeting with
 18 Mr. Connington?
 19 A I did.
 20 Q Who else was there?
 21 A Me, Dave and Tucker. I'm not sure if
 22 anybody else was there.
 23 Q What was said at that meeting?
 24 A Tucker said, I just want to make sure
 25 that it's a safe situation.

1 Victoria Malone 109
 2 I said, I didn't do anything that was
 3 unsafe to begin with so I don't know what that
 4 means.
 5 And he said, I just want to make sure,
 6 and I said okay.
 7 Q Did you say anything else at that
 8 meeting?
 9 A Not that I -- I could have. I don't
 10 remember.
 11 Q Did Mr. Connington say anything else
 12 at that meeting?
 13 A I don't remember.
 14 Q Did Mr. Salvo say anything at the
 15 meeting?
 16 A I don't remember. I'm not going to
 17 put wording.
 18 Q At that meeting did you tell
 19 Mr. Connington that you did not want to go back
 20 to the tree crew?
 21 A I don't remember. I don't think I --
 22 all I said was I never did anything wrong to begin
 23 with.
 24 Q Did you tell Mr. Connington that you
 25 did want to go back to the tree crew?

Victoria Malone 130
that meeting?

A I'd have to look at the chain of events. I'm not sure. I believe that's when I was switched out briefly or something happened. I think that's when I was taken out and then they made the overtime and I missed out on it.

Q At that meeting did you bring up the overtime issue?

A I'm not sure.

Q And at that meeting did you tell Mr. DiZenzo that you did not want to be on the tree crew?

A I don't think I said those words. I don't know what I said past what I told you what I said.

Q Did you tell him that you did want to be on the tree crew?

A I don't think so.

Q And then just going back also, your testimony with respect to Mr. Salvo pushing you or shoving you, were you ever injured in any of those incidents?

A With him pushing or shoving me?

Q Yes.

Victoria Malone 131

A No.

Q Do you have a uniform for work at the highway department?

A Just jeans, steel-toe boots, and you have to wear a reflective vest.

Q Does the department provide those things?

A No.

Boots.

Q They provide you with the boots?

A Um-hm.

Q Do you have to purchase the other clothing equipment with your own money, or do they give you a budget?

A They used to buy me jeans, but I didn't like the jeans that they bought me. They just didn't fit right so I got my own.

I think they paid for them once, the jeans that I had purchased on my own, and then I bought them myself.

Q What would you typically wear for a day of work at the highway department?

A Jeans, a T-shirt, or mostly a T-shirt, steel-toe boots and a vest, unless it was winter

Victoria Malone 132

and then I would wear my coat.

Q And, again, was the coat something that would be provided by the highway department?

A Yes.

Q The coat was provided by the highway department.

A Yes, it was. Coats, sweatshirts, and their T-shirts were also provided. But the pants I bought on my own.

Q The T-shirt that you would wear, was that one that was provided by the highway department?

A Not usually. I didn't like the fabric that it was made out of so I usually wore my own T-shirt.

Q The jeans that you wore, were they ripped jeans?

A Yes. Sometimes. Sometimes they weren't ripped.

Q While on the tree crew, how many times do you think you got poison ivy?

A Oh, countless.

Q Once a year? Twice a year?

A Oh, no. Like all the time.

Victoria Malone 133

Q So more than twice a year?

A Oh, yeah.

Q Was there a particular season when you would get it?

A I don't think there was a particular season.

Q Was there a particular type of activity or task you would do that you would usually get poison ivy, or was it, what would you be doing that you would end up with poison ivy afterwards?

A To be honest, it happened at any time. If you cut through a tree with the poison ivy vine and the stuff gets on you, you get poison ivy.

Q Did you ever consider wearing long sleeves or additional protective gear to protect against getting poison ivy?

A I don't think anything you wear could really protect you from dust, because once it's on your skin and wherever it lands, the oils go everywhere. And if you take a hot shower after work, the oils spread.

Q Did you take any precautions to

1 Victoria Malone 158
 2 A Blue.
 3 Q Did you ever say I don't want to go
 4 in the roll-off with Dave?
 5 A I did what I was told.
 6 Q Did you ever ask for a separate truck
 7 to drive to a work site?
 8 A I don't recall.
 9 Q Did anyone also in your crew ever ask
 10 for an additional truck to drive to a work site?
 11 A I don't know.
 12 Q Miss Malone, who is Tucker Connington?
 13 A He is the -- I don't know. I forget
 14 what his title is. But he is what Andy -- Andy
 15 is what he is now. And he was a deputy before
 16 that.
 17 Q Would you say that he is sort of the
 18 second in command at the highway department, is
 19 that how you would refer to him?
 20 A Yes. That would be correct.
 21 Q When did he get that position?
 22 A I don't know.
 23 Q Was it when Frank DiZenzo became
 24 superintendent?
 25 A Yes.

1 Victoria Malone 159
 2 Q And prior to that, he was a deputy.
 3 A Yes.
 4 Q What is your work relationship with
 5 Mr. Connington?
 6 A There is none.
 7 Q Were you ever on a crew with
 8 Mr. Connington?
 9 A Not to my knowledge.
 10 Q In his role as the second in command
 11 as HMS III, would you have any need to interact
 12 with him on a daily basis?
 13 A I tried my hardest not to.
 14 Q And why was that?
 15 A Because he is aggressive, he is
 16 arrogant, he is verbally abusive, and he doesn't
 17 deserve the job that he has.
 18 Just because his title is an HMS III
 19 doesn't mean that he deserves it and doesn't mean
 20 that he's going to follow the rules of an HMS III.
 21 So I don't think I need to speak to him for any
 22 reason whatsoever.
 23 Q Why don't you think he deserves it?
 24 A Because he's mean, he's
 25 unapproachable, he verbally assaults people, he,

1 Victoria Malone 160
 2 I believe, I haven't seen it, but I heard that he
 3 physically grabbed an employee. He's a hothead.
 4 Q Does he act this way with everybody?
 5 A Pretty much.
 6 Q Did you see an incident where you're
 7 saying he touched someone physically?
 8 A I didn't see that, no. I just heard
 9 of it.
 10 Q Who did you hear it from?
 11 A I don't remember who I heard it from,
 12 but I know the person supposedly -- no. I do.
 13 John Luther told me.
 14 Q Who did he say that he touched?
 15 A He grabbed Joe Coughlin.
 16 Q I'm sorry. Who is it?
 17 A Joe Coughlin.
 18 Q Coughlin?
 19 And when did that supposedly occur?
 20 A I don't remember.
 21 Q When did John Luther tell you?
 22 A I don't remember an exact date.
 23 Q Was it years ago?
 24 A No, I think it was more towards like
 25 '17, '18. I'd say between '16, '17, '18. I'm

1 Victoria Malone 161
 2 not sure exactly.
 3 Q Did you ever see -- you said he's
 4 aggressive.
 5 What makes you say that?
 6 A The way he speaks to people. Like
 7 he's unapproachable. You can't approach him and
 8 ask him a question in any way.
 9 Q You allege that he would block the
 10 doorway to the bathroom?
 11 A Yes. I wrote a letter on that and I
 12 sent it. I cc'd it to the town board.
 13 MS. SCHEIBEL: I will have you
 14 mark it as Exhibit H.
 15 (Whereupon, letter, Malone Bates
 16 stamp 001445 was marked Defendant's
 17 Exhibit H for Identification, as of
 18 this date, by the reporter.)
 19 Q Do you recognize this document --
 20 A Yes, I do.
 21 Q -- Miss Malone?
 22 And what is this document?
 23 A This is a document that I had my
 24 mother type up for me about harassment.
 25 Q And when did you have her type it up?

1 Victoria Malone 162
 2 A September 12, 2014.
 3 Q How did she type it, did you give her
 4 handwritten notes?
 5 A I told her verbally.
 6 Q So you sat with her while she typed
 7 it.
 8 A Yes. I'm not good at typing.
 9 Q Is this letter signed?
 10 A No.
 11 Q Is this a signed copy of this letter?
 12 A No.
 13 Q Did you ever send this letter?
 14 A Yes.
 15 Q When did you send it?
 16 A I don't know.
 17 Q How did you send it?
 18 A I don't remember.
 19 Q Is there any indication from this
 20 letter that you sent it?
 21 A I most definitely sent it. I just
 22 don't know how.
 23 Q Who did you send it to?
 24 A Alex Gromack, Shirley Lasker, George
 25 Hoehmann, Frank Borelli, Stephanie Hausner,

1 Victoria Malone 163
 2 Wayne Ballard, and Elaine Apfelbaum.
 3 Q Do you have a signed copy of this
 4 letter?
 5 A I think this is the only one that I
 6 have. I don't think I have a signed copy. I
 7 don't think I signed it.
 8 Q You don't know how you sent it to
 9 anyone.
 10 A No. I think my mom sent it so I
 11 would have -- I don't know. She was in charge of
 12 the computer.
 13 Q Is there any indication that it was
 14 sent to anyone?
 15 A I don't know.
 16 Q Did any of the people listed here in
 17 the cc's speak to you about it?
 18 A I don't remember. That was a long
 19 time ago.
 20 Q Did anyone tell you that they had
 21 received this letter?
 22 A I don't know.
 23 Q You don't remember or you don't know?
 24 A I don't remember, honestly.
 25 Q Did you ever talk to anyone about

1 Victoria Malone 164
 2 this letter?
 3 A I don't remember.
 4 Q Did you ever raise the complaints
 5 that you have in the letter with anyone verbally?
 6 A I don't remember.
 7 Q In the letter you allege that you
 8 were bullied and harassed by Mr. Connington and
 9 that he would make disgusting noises when you
 10 passed by and block the doorways; is that
 11 correct?
 12 A When I tried to enter, yes.
 13 Q Did that continue to happen after you
 14 sent this letter?
 15 A No.
 16 Q Just so I understand, how many
 17 bathrooms are there at the highway department?
 18 A There is the men's locker room, they
 19 have a locker room in their bathroom, and then
 20 you walk into the deputies' office and there is a
 21 deputies' bathroom.
 22 Then you go through the deputies'
 23 office and that's like the main office where
 24 all the women are. There is the women's
 25 bathroom.

1 Victoria Malone 165
 2 Q I'm sorry. The main office where the
 3 administrative staff sits?
 4 A Yes. Like the superintendent is in
 5 there and the women, like the secretaries.
 6 Q There is a women's bathroom in there.
 7 A There is a women's bathroom in there.
 8 And right next to the women's bathroom is a
 9 bathroom that's for the superintendent.
 10 Q Are there any other bathrooms?
 11 A No.
 12 Q The bathroom that you said
 13 Mr. Connington was blocking, which bathroom was
 14 that?
 15 A That was the door to get into the
 16 deputies' office. To get to the bathroom that I
 17 would use.
 18 Q So not the door to the bathroom, the
 19 door to the office?
 20 A The door to get to the bathroom.
 21 Q Did anybody witness, did anybody see
 22 Mr. Connington doing that?
 23 A I don't remember. That was a long
 24 time ago.
 25 Q Is the bathroom in the deputies'

1 Victoria Malone 166
 2 office, is that the bathroom that was designated
 3 as a second women's bathroom for you?
 4 A It was designated as my bathroom,
 5 yes.
 6 Q Do you know when that happened?
 7 A I can't, I think it happened in 2010,
 8 I believe, maybe '11, somewhere along those
 9 lines.
 10 But I was banned from the women's
 11 bathroom that I had been using previously by
 12 Wayne Ballard, told to me by Andy Lawrence, and I
 13 was told if I complained about it, that my life
 14 would get ten times worse.
 15 Q And that bathroom that was off of the
 16 deputies' office, did you use that bathroom after
 17 the remainder of your time at the highway
 18 department?
 19 A Yes. That was supposed to be my
 20 bathroom.
 21 MS. SCHEIBEL: I'll ask you to
 22 mark a set of text messages labeled
 23 1838 to 1839.
 24 (Whereupon, text messages,
 25 Malone Bates stamp 001838-001839 were

1 Victoria Malone 167
 2 marked Defendant's Exhibit I for
 3 Identification, as of this date, by
 4 the reporter.)
 5 Q I will ask you if you recognize it
 6 once you have reviewed it.
 7 (Reviewing)
 8 A Yup.
 9 Q What is this document?
 10 A This is a text message.
 11 Q Is it a text message between you and
 12 Robert Klein?
 13 A Yes.
 14 Q Are the messages on the right-hand
 15 side of the page the messages that you sent?
 16 A Yes.
 17 Q Are the messages on the left-hand
 18 side of the page the messages that Mr. Klein sent?
 19 A Yes.
 20 Q On October 12th of 2017, did you text
 21 him I have to pee, and then with I guess an emoji
 22 with their hand raised?
 23 A Yes.
 24 Q How often did you inform your
 25 co-workers that you were leaving the work site to

1 Victoria Malone 168
 2 use the bathroom?
 3 A Any time I had to leave the work site
 4 to use the, to go to the bathroom.
 5 Q Was that every day?
 6 A Yes.
 7 Q How often would you text I need to
 8 pee?
 9 A I don't know. That was probably
 10 because I was on my way to the job site and might
 11 have been a little late, so they know I didn't
 12 get lost and that I wasn't somewhere else, that I
 13 was using the bathroom.
 14 Q How would Mr. Klein respond when you
 15 would send him these text messages?
 16 A Go ahead. Okay.
 17 Q Did you consider telling somebody you
 18 need to pee to be crude or inappropriate?
 19 A No.
 20 Q At the top of the same page there is
 21 a series of text messages dated October 2nd.
 22 Do you see that?
 23 A Yes.
 24 Q What were you saying, what were you
 25 telling Mr. Klein in that October 2nd exchange?

1 Victoria Malone 169
 2 A I'm going to call in sick.
 3 Q Why were you going to call in sick?
 4 A Because I would have been sick the
 5 next day.
 6 Q Why were you going to be sick?
 7 A Well, it says I'm at a fundraiser and
 8 drinks are going down fast.
 9 Q And what does that mean?
 10 A That means that I had some cocktails
 11 and I probably won't be feeling well the next day,
 12 well enough to go to work.
 13 Q What did Mr. Klein say?
 14 A Oh, okay. Good. Enjoy.
 15 Q Did that happen more than once that
 16 you told Mr. Klein you were going to be out the
 17 next day because you had been drinking alcohol
 18 the night before?
 19 A I probably said it again before that.
 20 I would let him know, just give him a heads up
 21 because he was my boss, to let him know I wouldn't
 22 be on the job the next day.
 23 Q How many times do you think you
 24 wouldn't be coming in because you had been out
 25 the night before?

<p style="text-align: right;">Page 170</p> <p>1 Victoria Malone 170</p> <p>2 A I don't know.</p> <p>3 Q More than once?</p> <p>4 A Probably.</p> <p>5 Q More than five times?</p> <p>6 A I don't know. I couldn't tell you.</p> <p>7 THE WITNESS: Might I take a</p> <p>8 break? Is that okay? I have to use</p> <p>9 the bathroom.</p> <p>10 (Whereupon, a brief recess was</p> <p>11 taken.)</p> <p>12 MS. SCHEIBEL: This is going to</p> <p>13 be Exhibit J.</p> <p>14 (Whereupon, text messages,</p> <p>15 Malone Bates stamp 001871-001872 were</p> <p>16 marked Defendant's Exhibit J for</p> <p>17 Identification, as of this date, by</p> <p>18 the reporter.)</p> <p>19 Q Exhibit J is a document with Bates</p> <p>20 stamp 001871 to 1872. And once you reviewed it,</p> <p>21 tell me if you recognize this document.</p> <p>22 (Reviewing)</p> <p>23 A Yes.</p> <p>24 Q What is this document?</p> <p>25 A Text messages.</p>	<p style="text-align: right;">Page 172</p> <p>1 Victoria Malone 172</p> <p>2 Q Did you create that image?</p> <p>3 A Yes. That's on my phone.</p> <p>4 Q Is that supposed to be an image of</p> <p>5 you?</p> <p>6 MR. POLLOCK: Are you asking</p> <p>7 about the whole image with the crown</p> <p>8 and everything, or are you asking if</p> <p>9 she created the image of her that's</p> <p>10 in that larger image?</p> <p>11 MS. SCHEIBEL: I'm asking if she</p> <p>12 created the image of her in this</p> <p>13 image.</p> <p>14 A The Bitmoji is me.</p> <p>15 Q Did you send this image to Mr. Klein?</p> <p>16 A I must have.</p> <p>17 Q Did you give your Bitmoji a crown?</p> <p>18 A Yes.</p> <p>19 Q Why did you give your Bitmoji a crown?</p> <p>20 A I liked it.</p> <p>21 Q How -- did you create, did you put</p> <p>22 your Bitmoji on a toilet?</p> <p>23 A No. That was just one of the options</p> <p>24 that it comes with.</p> <p>25 Q How do you select a Bitmoji?</p>
<p style="text-align: right;">Page 171</p> <p>1 Victoria Malone 171</p> <p>2 Q Who are the text messages with?</p> <p>3 A Blue.</p> <p>4 Q Meaning Robert Klein?</p> <p>5 A Yes.</p> <p>6 Q Are the texts on the right side of</p> <p>7 the page the texts that were sent from your</p> <p>8 phone?</p> <p>9 A Yes.</p> <p>10 Q Are the texts on the left side of the</p> <p>11 page the text messages sent from Mr. Klein's</p> <p>12 phone?</p> <p>13 A Yes.</p> <p>14 Q Now, if you look at the exchange</p> <p>15 dated September 26, 2017 that starts at the bottom</p> <p>16 of the first page and goes into the next page --</p> <p>17 A Yes.</p> <p>18 Q -- is this a Bitmoji?</p> <p>19 A Yes.</p> <p>20 Q What is a Bitmoji?</p> <p>21 A It's, it's like emoji but it's one</p> <p>22 that's based on I guess like your -- you like</p> <p>23 create it with your hair and stuff like that.</p> <p>24 Q An emoji that's supposed to be you.</p> <p>25 A Yes.</p>	<p style="text-align: right;">Page 173</p> <p>1 Victoria Malone 173</p> <p>2 A It comes with, there is like a scroll.</p> <p>3 It's like the emojis but there is all different</p> <p>4 ones.</p> <p>5 Q And one of the options was sitting on</p> <p>6 a golden toilet with money toilet paper?</p> <p>7 A Yes.</p> <p>8 Q Why did you select that image?</p> <p>9 A I don't know. I don't know what the</p> <p>10 context was for.</p> <p>11 Q Why did you send it to Mr. Klein?</p> <p>12 A I'm not sure. I don't know.</p> <p>13 Q What did he say in response when you</p> <p>14 sent it to him?</p> <p>15 A LOL.</p> <p>16 Q What did that mean?</p> <p>17 A Laugh out loud.</p> <p>18 Q Did you send it to him as a joke?</p> <p>19 A I don't know.</p> <p>20 Q You don't know why you sent it to</p> <p>21 him.</p> <p>22 A No. I would have to go back to 2017</p> <p>23 and see why I sent that. I don't know why I sent</p> <p>24 that. Could have been a conversation, could have</p> <p>25 been something.</p>

Victoria Malone 174

Q Were there other options in the Bitmoji besides sitting on a toilet with money toilet paper?

A Money toilet paper, there is a bunch of other options.

Q What are the other options?

A You could do anything. They have all different ones.

Q Are some of them not in a bathroom?

A Yes.

Q Do you allege that in your complaint, that Mr. Connington changed your crew assignment and you lost out on overtime pay?

A I'm sorry. Say that again?

Q Do you allege that Mr. Connington changed your crew assignment and you lost out on overtime pay?

A Yes.

Q How many times did that occur?

A That one instance is the big one that I can remember.

Q Which instance is that?

A The one where I got switched out of my crew and Dave Salvo stayed because of the

Victoria Malone 175

whole fabricated story.

Q The flagging complaint.

A Yes.

Q Is it your allegation that Mr. Connington switched you out of your crew with the intention that you would lose out on overtime pay?

A I don't know.

Q Is there a specific day of overtime that you're referring to?

A I know there was overtime. I don't remember exactly what day it was or what it was for, but I know that I missed out on overtime.

Q Did Mr. Connington ever say anything to you that made you think he switched your crew so that you would lose out on overtime?

A I think that Mr. Connington just in general does not like me. So he could care less where I go, what I do, what crew I'm with, whether or not I'm losing out on money. He just truly does not care.

Q Why do you think he doesn't like you?

A Because of the way he speaks to me.

Q How does he speak to you?

Victoria Malone 176

A Like an arrogant asshole.

Q Can you give me an example?

A Yes. He had a lot to do with the MEO II, the training, he was in charge of it, he was in charge of the training, he was in charge of the test, he was in charge of all that. That's when I was due to get my promotion, and I had been left back.

Everybody got promoted except for me and one other person, and I had asked him why, and I had asked him if I could see the other test results, just to see if there was a reason why I was being left out.

And he refused and he yelled at me in the office and told me that he lost them and it's none of my business.

Q And when was that?

A That was after people started getting promoted to MEO II.

Q So would that have been before you submitted your grievance about not being promoted?

A I believe I submitted my grievance right after that.

Q Immediately after having this

Victoria Malone 177

conversation with Mr. Connington?

A I believe so, yes.

And then another time he yelled at me and embarrassed me in front of a bunch of people because I refused to drive a roll-off that was unsafe.

Q When was that?

A I don't know an exact date.

Q Do you know a year?

A No. I would have to look in my notes.

Q What happened?

A I told him that I wasn't going to drive a roll-off truck that he assigned to me that day. And he yelled at me and embarrassed me in front of people, and made me feel like I was a piece of shit, and I complained about it.

And the witnesses that I had that were standing right next to me, I said to Chris McDermott that day, I said nobody talks to me like that. You cannot talk to people like that, especially in the position that you're in. You can't talk to people like that.

And Chris McDermott said okay. All right. Don't write anything up. Don't do

Victoria Malone 178
anything crazy. Basically trying to talk me out of it because, I don't know why.

And then when they were told to write down what had happened that day, nobody stuck up for me.

Q In what way didn't they stick up for you?

A They said that they didn't know basically -- I didn't read what they wrote completely, but they didn't say what actually happened.

Also on that, I was, the date that they were told that they had to write something up on what had happened for that instance, I was in the truck with Rob Klein. And Chris McDermott called on the phone and he said, I'm supposed to write something up.

And Blue, Rob Klein, said don't say anything, don't write anything, I will talk to you when I get into the barn.

Q How do you know he was talking to Chris McDermott?

A I saw. I was sitting right next to him.

Victoria Malone 179
Q How do you know what Chris McDermott said to him?

A I overheard it on the cell phone.

Q What is it that Mr. Connington said to you?

A I don't remember exactly. He yelled. I took pictures of the tire, I took pictures of the truck.

Q After he yelled at you, did you ride in the truck that day?

A I did.

Q And who drove the truck that day?

A Denny Frisco. I think he was trying to defuse the situation and just said whoa, whoa, I'll drive it, don't worry, I will drive the truck.

Q Before he offered to drive it, did Mr. Connington instruct you that you could take a different truck?

A No.

Q Who was the foreman that day?

A Chris McDermott.

Q Was Chris driving a pickup truck that day?

Victoria Malone 180
A I don't remember. I believe so but I don't remember for sure.

Q Could you have driven in the pickup truck with Mr. McDermott?

A I don't know. I don't know who else was in that crew. If I had the choice to go with anyone, it would be Denny Frisco.

Q So you rode as a passenger and he rode, drove the truck that you were complaining about.

A Yes.

Q Did you drive the truck at all that day, or did just Mr. Frisco drive?

A Denny.

Q Did you ride in that truck at all after that day?

A I don't -- maybe after it was fixed. I don't know.

Q What about your interaction with Mr. Connington upset you?

A Because he screamed at me for no reason. And he embarrassed me. I'm not saying anything wrong. I'm telling you that I don't feel safe driving a truck that had bald tires and

Victoria Malone 181
bad brakes. That's what I'm saying to you. I don't want to be responsible for me getting hurt, the truck something, me killing somebody. That's my job as an operator. I'm supposed to deem whether something is safe or unsafe to drive. But bald tires, it's never safe to drive.

Q Have you ever seen Mr. Connington yell at another employee?

A I can't recall at this time. I don't know. I'm sure I could think of something.

Q Is Mr. Connington a difficult boss?

A A difficult -- I wouldn't call him a boss, I would call him -- I don't know what I would call him.

Q When he screamed at you regarding the truck, did you say anything back to him?

A I don't remember. I'm sure I said something. I don't remember what I said.

Q Did you scream at him?

A I don't think so.

Q Did you swear at him?

A I don't think so, no.

Q I'm sorry. Did you say you wouldn't call him a boss?

Victoria Malone 182

A Because just because you put a title in front of somebody's name doesn't mean they act the appropriate way to be a boss.

Q Does Mr. Connington have any responsibilities with respect to your work?

A What does that mean? I'm sorry.

Q Does he determine your work on a day-to-day basis?

A Yes.

Q Do you have any interaction with him on a day-to-day basis?

A No, I don't have interaction -- the foremen go and get the clipboards from the deputies and then they get the job assignments.

Q How frequently would you need to see Mr. Connington at work for a work issue?

A Just in passing or going into the deputies' office to use the bathroom or at the end of the day.

Q So how often --

A In the morning.

Q How often do you see him at work?

A Differs on a day-to-day basis. I can't give you a direct number.

Victoria Malone 183

Q How frequently would you interact with him at work?

A I try not to interact with him at all.

Q You said you made a complaint about him yelling at you about the truck; is that right?

A Yes.

Q Who did you make a complaint to?

A I wrote it down, I believe I gave that to Dom.

Q When did you give it to him?

A I'm not sure when. It wasn't right then and there. I think it took me a little bit to muster up the confidence to write something down and hand it in against him.

Q Did you complain to anybody about it the same day?

A Yeah. I complained to my foreman Chris McDermott that was the foreman for the day, Denny Frisco, I could have said it to other people. I just don't know off the top of my head right now.

Q Did anyone suggest that you make a

Victoria Malone 184

formal complaint about it?

A No, they told me not to.

Q And you said that ultimately you made the complaint to Dominick Santulli?

A Yes. I might have -- no. I think I made it to Dom.

Q When you complained to him, what was his response?

A Write it down.

Q So you first made a complaint to him verbally?

A Yes.

Q Then did you write it down when he said that?

A I wrote it down, yes.

Q How far in between when you initially complained to him then and when you wrote it down?

A I don't know an exact amount of time.

Q More than a day?

A I'm not sure.

Q Then after you gave him a written complaint, what happened?

A I don't remember exactly what

Victoria Malone 185

happened.

Q Did he take any action with it?

A Yes.

Q What did he do?

A I don't know exactly what he did.

Q Was there any other instance where you thought that Mr. Connington was having you drive a truck that was unsafe?

A That was the big one. I think that was it.

Q Are there any other instances where you think Mr. Connington was verbally abusive to you?

A I can't recall right now.

MS. SCHEIBEL: Can you mark this one. Text messages bearing Bates number 002061.

(Whereupon, text messages, Malone Bates stamp 002061 was marked Defendant's Exhibit K for Identification, as of this date, by the reporter.)

Q Once you had a chance to review it, Miss Malone, tell me if you recognize this

Victoria Malone 186

document.

A (Reviewing)

Yes.

Q And what is it?

A This is a text message with Dom Santulli.

Q Are the messages on the right side of the page the messages from your phone?

A Yes.

Q Are the messages on the left side of the page the messages from Mr. Santulli's phone?

A Yes.

Q And do you see the text message sent on June 27, 2018?

A Yes.

Q Did Mr. Santulli encourage you to make a complaint against Mr. Connington?

A Encourage me to?

Q Yes.

A No. I wanted to write it. I got my own confidence and wrote it on my own.

Q Who is Dmitri?

A I need help rewording words. I have a problem with writing things down in my head.

Victoria Malone 187

That's why I have my mom type things for me because she helps me out with that stuff. I need help with that stuff.

Q Did Mr. Santulli help you with the wording of your complaint?

A He told me to write it down and then I don't, I think he said that everything I wrote down when I handwritten it, that it was fine.

Q You handwrote a complaint.

Did you subsequently type up the complaint?

A I think I just handwrote it.

Q Who is Dmitri?

A He is a former -- I mean a co-worker.

Q Do you know his last name?

A No.

Q Did Mr. Santulli receive a complaint from Dmitri about Mr. Connington?

A I don't know. It says here that he's trying to get Dmitri to write it up.

Q Did you know what Mr. Santulli was talking about?

A No. But I know that he harassed him and I know that he harassed Jumbo as well.

Victoria Malone 188

Q How did you know that?

A Jumbo told me.

Q How did he harass Jumbo?

A I don't remember specifics. You'd have to ask him.

Q Do you know of anyone else who had complaints about Mr. Connington?

A I think everybody else had a complaint about Tucker at one point, everybody that I talked to anyway.

Q Were their complaints similar to your complaints?

A I don't know what their problems are. I just knew that there was a problem.

Q Do you think that Mr. Connington was more aggressive with you than he was with others?

A I don't know because I don't know how he was with other people. I knew that he was very aggressive with me.

Q Did you think that he yelled at you more than he yelled at others?

A I don't know because -- I can't answer that because I don't know how many times he's yelled at other people.

Victoria Malone 189

Q Did you think that he yelled at you because you were a woman?

A I think that definitely had something to do with it.

Q And why do you think that?

A There was no other reason to yell at me.

Q Do you think Mr. Connington had a reason to yell at the other people he yelled at?

A I don't know.

Q Miss Malone, is it correct that you allege that the cable snapped off a roll-off truck you were using in January 2019; is that correct?

A What page are you -- I just want to check the date.

Q I'm sorry. Let me go back to one thing before we do that.

Before your complaint to Mr. Santulli about the roll-off truck, did you make any other complaints about Tucker Connington other than that complaint and the 2014 letter that we looked at?

A To anybody, no. As far as being

Victoria Malone 190

written down or handed in or anything like that?

Q Yes.

A I don't believe I did.

Q Now going back, is it correct that you allege that a cable snapped off your roll-off truck in January of 2019?

A It did snap off my truck. I don't know what date that was though. I don't have it in front of me.

Q Are you alleging that someone tampered with the cable on your roll-off truck?

A I didn't know. I would like to find out because it was just serviced. To my knowledge it was just serviced. So for that to happen, it's just an odd thing that's never happened to me before.

Q As we sit here today, do you think that someone tampered with the cable on your roll-off truck?

A I don't know.

Q What were you doing when the cable snapped?

A I was pulling -- I was either putting the box down or pulling the box up.

Victoria Malone 191

Q Who else was on your crew that day?

A Chris Frank, John Luther, and Ray.

Q Is it correct that was the final crew you worked with before you were transferred to the garage?

A I believe so, yes.

Q Is it correct you did not have any issues with any of the people on that crew?

A No.

Q Why do you think that someone tampered with the cable on the roll-off truck, or why do you --

A There was a lot going on at that time and I think that I wanted to be sure that somebody wasn't trying to hurt me.

Q What is the cable made of?

A I don't know. Steel? I have no idea.

Q Who do you think would have tampered with it?

A I don't know.

Q Do you also allege that someone tampered with one of the wheels of your snow plow in February of 2019?

A Yes.

Victoria Malone 192

Q What were you doing at the time that you had the problem with the wheel on your snow plow?

A I was plowing snow.

Q Had there been a call out for snow?

A Yes.

Q Was this at night or during the day?

A This was at night.

Q What time did your shift begin?

A I don't know.

Q When you arrived for that snow shift, what did you do when you got to the barn?

A I don't know exactly what I did.

Q Did you inspect your truck before you went out?

A Always. I always inspect my truck before I go out for a snowstorm. They send you specifically; everybody go check your trucks, make sure everything is working right, make sure you have all your blades, make sure everything is good to go before we send you out.

Q Did you check your truck that night?

A Most definitely.

Q How long were you out plowing before

Victoria Malone 193

you had a problem with the wheel?

A I don't know what time we were sent out so I can't give you that answer. But I was out on my route.

Q Do you remember if it was early on, or after you had been out plowing for a long time?

A I couldn't tell you. I don't know what time I was sent out that day.

Q How did you realize -- I guess I should ask.

Did the wheel come completely off the plow?

A Oh, yeah.

Q How did you realize the wheel fell off?

A My truck went sideways.

Q So the truck was leaning to the side that lost the wheel?

A Yes.

Q Was there any noise?

A I had my radio pretty loud so I felt something wasn't right and then it just went sideways.

Q How fast were you driving when it

Victoria Malone 194

1 fell off?

2 A Thank God I was like crawling down

3 the street. God forbid I was on 304 going

4 40 miles an hour. I could have killed somebody

5 or killed myself.

6 Q Were you injured?

7 A No.

8 Q What did you do after the wheel fell

9 off?

10 A I called Dom and said my wheel fell

11 off, I don't know where it went.

12 Q You don't know, so when you went out

13 to look at the truck, the wheel --

14 A It was gone.

15 Q You went out to look at the truck.

16 Did you see the wheel anywhere?

17 A No.

18 Q Did you ever find the wheel?

19 A Yes.

20 Q Where was it?

21 A It was across the street like almost

22 in a bush.

23 Q At the time it fell off, did you tell

24 anyone that you thought it was funny that the

25

Victoria Malone 195

1 wheel fell off?

2 A I'm not a mechanic. I don't know how

3 all that works. I was led to believe that it was

4 sabotaged by Dom Santulli.

5 Q How did Mr. Santulli lead you to

6 believe it was sabotaged?

7 A He said something about the pins and

8 then he said something about wow, I can't believe

9 it's come to this. We are going to have to put

10 some sort of a, I don't know if markers or

11 whatever he said, but they are going to have to

12 order them for the lug nuts to see if they are

13 loose from now on.

14 So he made it seem as if somebody had

15 sabotaged my truck.

16 Q Did he make it --

17 A He put that in my head.

18 Q Sorry.

19 Did he indicate to you that it would

20 be very difficult for the wheel to have fallen

21 off on its own, or did he say to you someone must

22 have tampered with it?

23 A He told me that somebody must have

24 tampered with that wheel.

25

Victoria Malone 196

1 Q Other than what Mr. Santulli said to

2 you, was there anything else that made you think

3 your truck had been tampered with?

4 A Just the wheel falling off.

5 Q Anything else?

6 A Just what Dom said.

7 Q Anything else?

8 A I asked Don, the mechanic, Donnie

9 Smith, I asked him, I said, so you're, if you're

10 telling me this right, then if my dad were here --

11 my dad is also a mechanic and he was in charge of

12 the town garage at one point.

13 If my dad were here and he looked at

14 this truck, are you going to tell me my dad would

15 say this wasn't sabotaged?

16 And he just kind of gave me a face

17 like -- he didn't say anything.

18 MR. POLLOCK: For the transcript,

19 a face like what?

20 A Can I take my face --

21 Q You have to describe.

22 A Okay. Face like, like oh, I don't

23 know.

24 Q Who do you think tampered with the

25

Victoria Malone 197

1 wheel?

2 A I have no idea.

3 Q What would they have needed to do to

4 tamper with it?

5 A I -- have the tools? I don't know.

6 Q Did you report these potential

7 sabotage incidents with the cable and with the

8 snow plow to the police?

9 A I think me and my lawyers did, I

10 believe.

11 Q Did the police investigate these

12 incidents?

13 A Yes.

14 Q Did you see the police report

15 regarding the investigation?

16 A I don't think they showed me the

17 actual report. I'm not sure.

18 Q Do you know the outcome of the

19 report?

20 A They said their paperwork was all off

21 and they said that they have no reason, no --

22 they said they don't have any proof I don't think.

23 I don't remember. I don't want to put words in

24 anybody's mouth. I'm sure it's written down.

25

Victoria Malone 210
 was being recorded. I was uncomfortable.
 Q Who was at that meeting?
 A I don't remember exactly. I know
 Leslie was there, I remember Toomey was there.
 Beth McDonald came with me.

Q Who is Beth McDonald?

A She's the president of the union.

And there was some other guy there.
 I don't remember his name but he has glasses. I
 think he's another attorney for the town.

Q Prior to that meeting, had you had any
 interaction with Leslie Kahn?

A No. I didn't know Leslie.

Q Prior to that meeting, had you had any
 interaction with Vincent Toomey?

A No.

Q Prior to that meeting, had you had any
 interaction with the other attorney?

A No. Somebody did call me in from
 Hoehmann's office and I don't remember his name.
 But he called me on the phone and asked me to
 come into his office.

And he gave me a bunch of paperwork
 and he said it was best to keep everything

Victoria Malone 211
 hush-hush and not to say anything to anybody.

Q And when was that?

A I wrote that down. I'm not sure
 exactly when that was. I have the date and
 everything and his name written down.

Q Was that before or after you met with
 the town attorneys?

A I would have to check the dates. I
 don't remember.

Q Where was that meeting?

A In Hoehmann's office. It was in the
 same -- like I guess there is different offices
 in there. He had his own office though. He is
 in Hoehmann's office.

Q Was it in town hall?

A Where did I go for that. Wherever
 Hoehmann's office is, that's where I was.

Q What kind of forms did he give you?

A I don't remember but I bet you have
 copies of them.

Q So going back during that meeting
 with Miss Kahn, Mr. Klein, did you refuse to
 identify the other people that had allegedly
 assaulted you?

Victoria Malone 212
 A I didn't want to talk to them,
 period. I didn't want to talk. I didn't want to
 say anything. I gave them as much information as
 I could at that time and that was it. I was
 done.

Q Did you refuse to identify the other
 people that you alleged to have assaulted you?

A I refused, yes. I didn't want to
 give any names at that time.

Q Did you also refuse to identify the
 names of the other people that had allegedly
 harassed you?

A I don't remember exactly. I don't
 know. I was a little bit hysterical in that
 meeting.

Q And did the town after that meeting
 separate you and Mr. Klein from the same crew?

A No. That's when I believe that they
 had Blue go to the brush crew.

And then I was separated from that
 crew and then put in Ray's crew.

Q When Blue went to the brush crew,
 were you with him?

A Yes. That was for a very short period

Victoria Malone 213
 of time.

Q Then were you removed from the crew?

A Yes.

Q Do you know why you were removed from
 the crew?

A I don't remember exactly.

Q So when you were transferred from the
 tree crew, you and Mr. Klein were both transferred
 together?

A Yes.

Q Had you asked to be separated from
 Mr. Klein?

A I didn't ask, no. I didn't ask for
 any of that.

Q Did you ever ask Mr. DiZenzo to
 change your crew assignment or remove anyone from
 the crew?

A I don't think so, no.

Q After Mr. DiZenzo became highway
 superintendent, did you ever make any complaints
 to Mr. DiZenzo about your co-workers other than
 the you had the meeting about the flag incident,
 and you believed that he was given the chainsaw,
 the complaint about the chainsaw, did you ever

Victoria Malone 226

everything down.

A Yes.

Q Did your mother ever suggest that you make a complaint to anyone at the town?

A I'm sure she's told me a bunch of times, yes.

Q Did you ever take her advice?

A I did take her advice. I took her advice when everything was going on with Rory. Multiple times. I wrote him up, I talked to people verbally about him. It continued.

That's the problem. You don't have anybody to complain to. There is nobody to complain to. You can say that you complained to somebody. They don't care.

Q Was your mother a town employee also?

A Yes.

Q What did she do at the town?

A First she worked for personnel, and then she worked for the fire inspector's office.

Q Does she still work for the town?

A No.

Q Did you ever make a complaint to anybody in personnel?

Victoria Malone 227

A I don't think so. I don't know. I don't think so. I couldn't complain to anybody. I couldn't talk to anybody. There was nobody that would help me.

I tried to go to the union. I tried a bunch of different things. The union deleted my file. Nobody would help me. There was nothing to do. I didn't know who to complain to.

Just because it says that Frank DiZenzo is the superintendent doesn't mean that Frank DiZenzo acts like the superintendent. Frank DiZenzo is everybody's friend. He's not going to get anybody in trouble, he's not going to yell at anybody, he's not going to write anybody up.

There is nothing that's going to happen so what is the point in complaining. The only thing I'm doing is making it worse for me. Look what's happened. I claimed I didn't get promoted to MEO II to God knows when, which means I missed out then on all the other tests that I could have taken to get higher positions.

Q And the MEO II grievance, the promotion grievance, that was the one that you

Victoria Malone 228

settled with the town in 2016?

A Yes. I believe it was 2016.

Q Miss Malone, when you were at the highway department, did you ever apply to become a foreman?

A I couldn't.

Q Why not?

A Because I didn't have enough -- I think you have to be an MEO II for two years in order to take the foreman's test. And because I was denied my promotion for so long, I wasn't able to take the test when it was being given. So I watched people that were hired after me get raises.

Q So you're saying based on the date of your prior settlement, you weren't eligible.

A I wasn't eligible, correct.

Q How many times after you became an MEO II was there a test for foreman?

A I don't, I think there was only one, and then I think there was a deputy's test after that.

Q Are there any other requirements to become a foreman?

Victoria Malone 229

A I think it's just you have to have two years experience as an MEO II to take the test.

Q Did you ever tell anybody that you wanted to become a foreman?

A I don't know if I told anybody that but I definitely would have taken the test.

Q So you said that you're currently working at the town garage?

A I am.

Q And you started there around the Spring of 2019; is that correct?

A Yes.

Q Why were you transferred to the town garage?

A Because they said that during, to my understanding they said that during the investigation of the town, or the investigation that the detectives were doing of the town, all the questioning they had to do, they moved me. But they moved me and left me there.

And the only reason I went to the town garage is because it would be the only place that I'd be safe.

Victoria Malone 230

Q What do you mean by that?

A That the entire Town of Clarkstown is involved with each other in one way, shape or form.

So there could be two guys working at the highway department and their wives and they are friends, and their cousins are all working all over the place.

So the only place I would be safe where I would feel comfortable being would be working underneath my brother-in-law.

Q Your brother-in-law works at the town garage?

A He does. He is in the mini trans.

Q What is his name?

A Sean Washington.

Q So your brother-in-law works at the garage, and where, you said -- where does your father work?

A He was in the mini trans as well.

Q What is his name?

A My dad?

Q Yes.

A Dennis Malone.

Victoria Malone 231

Q And your mother worked in personnel.

A Correct.

Q What was her name?

A Beth Ann Malone.

Q Do any other members of your family work at the town?

A Other than those? My dad retired, my mom is retired, so it's just my brother-in-law.

Q Your brother-in-law is the only current family member?

A Yes, besides -- me and him, yes, that's it.

Q Who told you why you were being transferred to the town garage?

A They didn't tell me why. The garage gave me a piece of paper that stated I was to report to -- I forget what the paper said. I had to go see Dennis Letson. That's his name, right, Dennis Letson, at that time 9 a.m. and whatever date, and he would tell me where to go. And I was told to go down to the town garage.

Q At that time, did you tell anyone that you did not want to be transferred?

A I just did what I was told. I'm not

Victoria Malone 232

sure. I could have said something to somebody. I'm not sure though.

Q Did you want to be transferred at that time?

A I had, I was upset. Ray was a really good foreman. I was happy to be out of that environment. But I wouldn't say that it was -- it wasn't a good situation. I shouldn't have been in that situation where I had to be moved to begin with. It was upsetting. It was upsetting that I was the only one that was being moved. It was almost like, it still is a punishment.

Q Why is it a punishment to have been moved?

A Because I'm the only one that was moved. I'm the only one that's going through what I'm going through. I'm a machine operator. I'm a truck driver. I'm not a bus cleaner. I don't sweep floors. That's not my job title. Answer phones. I'm literally doing anything I could possibly do to make the day go by. That is not what my title is.

Q And at the time before or after you were transferred to the garage, would the town

Victoria Malone 233

offer to transfer you anywhere else?

A They did.

Q Where else did they offer to transfer you?

A The sewer department.

Q Did you turn that offer down?

A Yes, I did.

Q Why?

A Because John Fay works for the sewer department and I can't stand John Fay.

Q Who is Mr. Fay?

A He worked for the highway department for a good amount of time and then he was transferred.

Q Is he related to anyone that you have had issues with at the highway department?

A He is not related but he is friends with. I don't think he is related, I don't know, but I know he is friends.

Q What is it that you don't like about him?

A He's a troublemaker,

Q What do you mean by that?

A He just causes problems, he causes

1 Victoria Malone 234
 2 trouble.
 3 Q Can you give me an example?
 4 A Let me see. I kind of, I try to stay
 5 away from him for the most part. I had an
 6 encounter with him at one time in a bar. He
 7 tried to make out with me and I pushed his face.
 8 Q When was that?
 9 A That was a while.
 10 Q Years ago?
 11 A Years ago.
 12 Q Before Frank DiZenzo was highway
 13 superintendent?
 14 A Yes.
 15 I don't like him. He creeps me out.
 16 He just gives me -- I don't have good feelings
 17 about him. He is not a good person.
 18 Q After the encounter in the bar, did
 19 you have any other encounters with him?
 20 A No. I know that he was, he got into
 21 a lot of trouble. I don't know what his story
 22 is, but I know that Wayne got him out of trouble
 23 for something.
 24 And he was doing a lot for like Wayne
 25 at a period of time where I was being harassed by

1 Victoria Malone 235
 2 Wayne, so he would tell people that I was wearing
 3 a wire, like crazy things to make me look like I
 4 was trying to get somebody in trouble or like
 5 making me look like a bad person.
 6 Q Who said that you were wearing a
 7 wire?
 8 A John Fay.
 9 Q Besides the sewer department, did the
 10 town make any other transfer offers to you?
 11 A I don't know. I think I turned that
 12 one down.
 13 Q Did they offer to transfer you to
 14 parks and recreation, or recreation and parks?
 15 A I think so, yes.
 16 Q And did you turn that offer down?
 17 A Yes, I did.
 18 Q And why was that?
 19 A I don't particularly know why I did
 20 off the top of my head right now, but I'm sure
 21 there is a reason.
 22 Q In terms of being transferred to the
 23 garage, did you suggest that or did the town
 24 suggest that?
 25 A I believe the town suggested that.

1 Victoria Malone 236
 2 Q What are your duties at the garage?
 3 A I pick up auto parts, I answer phones,
 4 I wash buses, I scrape boogers off windows of the
 5 buses, I paint rims of tires, I drive police
 6 cars, I pick police cars up from the station and
 7 bring them back to the garage and vice versa, I
 8 drive vehicles to pass them for inspection, I
 9 drop cars off to town hall and pick them up.
 10 Q Anything else?
 11 A I was doing some stuff like weighting
 12 tires, changing oil, putting tires on trucks. I
 13 was trying to learn like anything mechanically
 14 that I possibly could only because that would make
 15 my day go by faster.
 16 But I'm not sure who said it, but I
 17 think one of the mechanics down there said that I
 18 wasn't allowed to use the air hose tools, the
 19 power tools, because I wasn't a certified
 20 mechanic, so I wasn't allowed to use the tools
 21 anymore.
 22 So instead of using the power tools
 23 and like the power machines and stuff, I just
 24 use, like when I'm doing an oil change and stuff,
 25 I will use the regular handheld tools.

1 Victoria Malone 237
 2 Q Who is your direct supervisor at the
 3 garage?
 4 A Sean Washington.
 5 Q Your brother-in-law.
 6 A Correct.
 7 Q Is that your sister Megan's husband?
 8 A Yes.
 9 Q Do you get along with your co-workers
 10 at the town garage?
 11 A I do.
 12 Q Has anyone harassed you at the town
 13 garage?
 14 A No.
 15 Q Who is Bob Milone?
 16 A Bob Milone is the new highway
 17 superintendent.
 18 MS. SCHEIBEL: Cheryl, that's
 19 M-I-L-O-N-E.
 20 Q What is your relationship like with
 21 Bob Milone?
 22 A I don't really have a relationship
 23 with Bob Milone. He was friendly with my dad at
 24 some point, and then he had come down to the
 25 town garage I think right after he got in as

Victoria Malone 238
superintendent and asked me if I wanted to come back.

Q And what did you say?

A Absolutely not.

Q So when he asked you to come back to highway, you said absolutely not.

A Yes. I said -- well, at first I think I said okay, Bob. Like I didn't know what to say to him. I said I will get back to you on that.

And he told me not to tell anybody asking me to come back.

I said okay. But you just, I mean, everybody knows somebody in the Town of Clarkstown so everybody heard it.

And they were like, is he kidding? And I'm like, I don't know.

Q Where were you when he had the initial conversation with you about coming back?

A In the town garage, in the police garage.

Q And asking you not to tell anybody about it, was that part of the same conversation, or did that happen subsequently?

Victoria Malone 239
A No, that was part of the same conversation.

Q Did you tell anybody about it, that he asked you to come back?

A I told my dad.

Q Anyone else?

A I told my mom.

And then I had, I think the mechanic that was right there heard it. I think I told my boss, Sean. I don't know. I could have told somebody else. I'm not sure. I think that's it.

Q When the town was suggesting other departments that you could transfer to, did you suggest any departments that you could be transferred to?

A I don't think so.

Q And when was your conversation with Bob Milone?

A That was right after he got highway superintendent. And I couldn't tell you an exact time. I want to say he came to me -- I don't want to say anything because I don't know an exact time.

Q Would that be January 2020 that he

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became highway superintendent?

A Yeah, I think so. I don't know. 2020?

MS. SCHEIBEL: We are at 4:20. I am at a good point and we can go another ten minutes.

MR. McDERMOTT: We can go to 4:40 at that point. You want to use up the rest of the day.

MR. McGOVERN: Off the record. (Whereupon, a discussion was held off the record.)

Q Miss Malone, let me ask you about your damages claim.

Are you claiming any financial damages?

A Yes.

Q What are the financial damages?

A The overtime that I missed out on.

Q The overtime, the overtime that you missed out on when you were transferred due to the flagging complaint?

A That and the overtime that I missed out on the entire time I have been at the town

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garage.

Q Is there any opportunity for overtime at the town garage?

A Very little. Not nearly as much as I used to make at the highway department.

Q What kind of overtime do you do at the garage?

A Sometimes they will call us in on a Saturday if they have to change -- like going into the winter months you have to change the police cars from their regular tires to snow tires. So if we need more time to do that, then they will do that.

Q Anything else?

A I think that's really the only time. Or -- no, I think that's it.

Q So you have overtime.

Any other financial damages?

A I don't know.

Q Do you have different pay now than when you were in the highway department?

A Just the fact that I'm not taking the overtime that I would.

Q So no other financial damages that